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ABSTRACT

This paper considers those factors that have been at work shaping educational policy at the state level in New Jersey. For simplicity and to permit a degree of comparison among the states, five questions are addressed: (1) What have been the effects of court intervention, (2) Are "new" political coalitions being formed and how effective are they, (3) What are the effects of the "new technologies" of school finance analysis, (4) What is the relationship of the school finance issue to other statewide issues, and (5) From the perspective of better serving the educational needs of pupils, are the changes that are attainable worth attaining? New Jersey has attained a modest, "simple," yet potentially profound, change in public education. It is a change in the education process, however, not in the way in which education is financed; New Jersey has failed at school finance reform. What New Jersey has is the goal of providing to all children regardless of socio-economic status or geographic location, the educational opportunity that will prepare them to function politically, economically, and socially in a democratic society. (Author/IRT)

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New Jersey: In Search of a "Thorough and Efficient" Education

by

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New Jersey: In Search of a "Thorough and Efficient" Education

New Jersey has been faced with the challenge of designing a new school finance allocation system that provides "the educational opportunity needed in the contemporary setting to equip every youngster for his role as a citizen and competitor in the labor market." According to a January 1976 ruling by the New Jersey Supreme Court, the Public Act of 1975, if it is fully funded, will meet this criterion. It has taken six years from the initial filing by the plaintiffs in Robinson v. Cahill to reach this point.

The events which have occurred over these years are the kind on which soap operas are built. Two main plots--the development of a definition of a thorough and efficient education and the construction of a new aid formula--have occupied the minds of the legislature. The court added the element of suspense by creating numerous deadlines and the plots were further complicated as the legislature misbehaved, and the governor was unable to control his party, and finally by the untimely death of the Supreme Court Justice.

There have also been the complications derived from the inability of three successive governors, both Republican and Democrat, to obtain passage of significant new taxes. The issues of educational reform and tax reform, whose relationship has been so often confused, have been linked in the minds of courts, administrators, legislators, and executives.

These many developments have led, as they do in the soap operas back to the original dilemma. The question arises whether New Jersey has basically come full circle and now declared constitutional, in the Public Act of 1975, what was perceived in 1972 as unconstitutional, the Bateman/Tanzman Act.

Background

New Jersey has placed primary responsibility upon the courts to solve both the tax and school questions. A journalist, Robert J. Braun, explained:

> At that time (late 1960s) the curative effect of money on poor schooling was accepted as a fact of life. In addition, it appeared that the power of the courts must be brought to bear on the problem, since other branches of government either were unwilling or believed they were unable to solve the obvious problem of educational deterioration in the big cities and rural areas.[1]

This situation was not unique to New Jersey. Although other states have had more fiscal resources available to implement a remedy, the sheer number of court cases is sufficient evidence that plaintiffs and others who are concerned with educational finance reform saw the courts as the key to unlocking uncooperative legislatures. However, the court decision in New Jersey is unique and must be considered in total. It is the only decision to explicitly call for educational reform in its specification of the need to develop a definition of a thorough and efficient education and the operationalization of that definition, as well as a reallocation of resources.

The Public Act of 1975 may go a long way toward defining a "T & E" education. It will be a few years before an effective evaluation can be undertaken to determine whether the new law has changed the educational process in New Jersey. What can be demonstrated is that the new law has not fundamentally altered the allocation of resources. The state share increases from 31% to 37.6%, however, twenty-five percent of state aid is payment of the full cost of the teacher pension program. State aid to localities comes to approximately $866 million of which $624 million represents current expense equalization aid or 57% of total state aid. The new law maintains minimum aid and has a complete safe/harmless provision. It also provides for a ceiling or cap on the amount a district can increase its

[1] Robert J. Braun, "About the State", Newark Star-ledger, February 24, 1976

operation budget. However, the number of districts that have received waivers of this provision make it meaningless. On a local level, the new allocation formula provides increased equalization to limited number of districts whose valuation now falls within the increased guarantee level.

In this paper, the basic purpose is to consider those factors which have been at work shaping educational policy at the state level in New Jersey. For simplicity and to permit a degree of comparison among the states, I have been asked to address my comments to five questions:

1. What have been the effects of court intervention?
2. Are "new" political coalitions being formed and how effective are they?
3. What are the effects of the "new technologies" of school finance analysis?
4. What is the relationship of the school finance issue to other statewide issues?
5. From the perspective of better serving the educational needs of pupils, are the changes that are attainable worth attaining?

Questions

What have been the effects of court intervention?

New Jersey courts have ruled five times in Robinson v. Cahill:

1. April 3, 1973 - State Supreme Court rules the present system of financing public school education is unconstitutional.
2. June 19, 1973 - Court gives the legislature until December 31, 1974 to develop a constitutional school financing plan to be in effect July 1, 1975.
3. January 23, 1975 - Supreme Court says it will let current school finance system stand another year.

4. May 23, 1975 - Supreme Court orders redistribution of $300 million in school aid effective July 1, 1976 if legislature does not develop its own new finance system by October 1, 1975.
5. January 30, 1976 - School aid upheld if funded by April 6. Procedural Decision.
6. March 15, 1976 - Arguments on funding.

The path taken by the court has been to move from what had been called a judicial landmark decision in 1973, which turned many eyes to New Jersey coming, as it did, only two weeks after Rodriguez was reversed, to modified retrenchment in the first Supreme Court decision, to vacillation and, finally, to a ruling based almost entirely on legal procedure and separation of powers. The actions of the court can be compared to those of a child who sticks his hand into the cookie jar but realizing he has been caught, slowly withdraws it to reveal, finally, an empty hand.

In my opinion, the court's actions have had three effects. First, the court, even with its admittedly vacillating decisions, still was a potent force in stimulating educational reform. The section of the Public Act of 1975 which deals with the development of a definition of a "thorough and efficient" educational system and subsequent creation of administrative guidelines for implementing that definition would probably not have occurred without the Robinson case. For 100 years, the New Jersey Constitution has required the legislature to maintain a "thorough and efficient" system of free public schools. In complying with the Supreme Court order, the legislature was forced to attempt, at least, to describe just what kind of education it was trying to finance.

Second, it is conceivable that the creation of a new school aid formula may have come about even without the Robinson decision. Changes were already being made to the Bateman/Tanzmn Act to bring it closer to a full funding level. It must be remembered that the allocation system was declared unconstitutional

because it was not fully funded and not because of the way money would be distributed under a fully funded law. The new Act contains most of the features which were originally considered undesirable, for example, minimum aid and safe/harmless, yet it too is declared constitutional if fully funded.

Finally, it is probable that the timetable for an income tax was not altered by the court decision. The need for additional state revenues predates Robinson. If anything, it intensified the debate at times but, in general, the legislature was completely comfortable letting court-imposed deadlines pass with regularity.

What separates the New Jersey court decision from those in other states, that is, the linking of the educational process with the concept of fiscal neutrality, is also the place where the courts have clearly served to stimulate new legislative and administrative initiatives. Yet now that the definition of "T & E" has been completed the linkage of tax and educational reform is again separating. The dominating issue is again New Jersey's ability to expand its revenue base.

Are "new" political coalitions being formed and how effective are they?

In recent years, the New Jersey legislature has been lopsided with regard to party affiliation. Presently, the Democrats hold large majorities in both houses and although the Public Act of 1975 was difficult to conceive, no new political coalitions, in the traditional sense, were formed. Where new activity has been seen is among the participants, primarily interest groups, in helping to develop the guidelines for a "thorough and efficient" system of education.

The New Jersey Education Association (NJEA)--the major education interest group, and, some feel, the most powerful lobby in the state of New Jersey-- was involved, as expected, in the creation of the administrative guidelines. They supported the 1975 Act because it did not set statewide minimum standards and left a role for teachers at the local level.

Where NJEA support has been lacking until this year is in full support for a state income tax. It was not until drastic budget cuts were proposed that the NJEA began a large scale effort to maintain the level of education support.

The Robinson v. Cahill case, and the subsequent activity by the legislature and State Department of Education to define "thorough and efficient" education, have involved a number of new groups in the education policy process. The Education Law Center and the Education Reform Project of the Greater Newark Urban Coalition entered the decision-making arena through amicus curiae briefs filed at various stages of argument of the Robinson v. Cahill case. Both groups strongly support the use of statewide testing in evaluating education and the establishment of a statewide minimum standard. Although these groups are small compared to the NJEA, their positions on the issues have received considerable support within the State Board of Education and are given a good chance of being adopted in a bill presently before the legislature.

The New Jersey Manufacturers Association (NJMA) is also a newcomer to the field of educational policy. Representative of New Jersey's small and medium-sized industrial establishments and not considered a major political force, the NJMA has only recently become concerned with state-level issues outside the realm of industrial and labor relations. As part of its concern over the uneven accomplishment by New Jersey schools in the teaching of basic skills, the NJMA has supported statewide testing in basic language and mathematical skills, and see the publication of district and school test performance as a way of pointing out which students are receiving inadequate educational preparation. In response to the NJEA's concern for the possible embarrassment or negative career impact on students from poorly performing schools, the NJMA answers that not publicizing test results would "merely submerge the more grievous harm done to youngsters who must enter our work force and society inadequately prepared."[2]

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[2]Committe on Education, New Jersey Manufacturers Assoc., Statement to the Board of Education concerning proposed revisions to Title 6, New Jersey Administrative Code, May 24, 1974, p. 8.

Traditionally, educational policy in New Jersey has been made by two major education groups, the State Department of Education and the NJEA. Today, the legislature and other groups such as the New Jersey School Boards Association are playing an active role.

What are the effects of the "new technologies" of school finance analysis?

The third question can be answered quickly and simply. New Jersey did not have the benefit, and some may say did not suffer the agony, of a commission to prepare elaborate examinations of alternative formulas, similar to work undertaken, for example, in Connecticut, New York, Ohio, and Florida. The State Department of Education prepared several options of the distributional effects on different kinds of districts, presented without detailed analysis, for use by the Joint Education Committee. The "new technologies" did not play a part in the process of developing a new aid system.

What is the relationship of the school finance issue to other statewide issues?

A basic characteristic of the reform in other states was a state revenue surplus and the use of federal revenue sharing funds to pay for the new aid system. New Jersey's fiscal picture has been considerably bleaker. By 1974, New Jersey was faced with high unemployment, inflation, and one of the highest property taxes in the nation. Therefore, any discussion of new state monies for education has included exhaustive deliberations on how to finance it. The school finance issue and the passage of a state income tax or other tax have been linked in the minds of legislators and citizens and the two issues have proceeded simultaneously. An abbreviated chronology illustrates this linkage:

JUNE 13, 1974 - Governor Byrne presents plan to special legislative session for a major tax reform program keyed to a $940 million, 1.5 to 8 percent personal income tax.

JULY 15, 1974 - Assembly passes income tax bill by 41-38 vote.

JULY 24, 1974 - Merlino withdraws the bill after a move to kill it on Senate floor fails.

OCTOBER 24, 1974 - Dodd touts statewide property tax to raise more than $400 million for schools. Administration begins to warn of a $300-$600 million budget gap.

NOVEMBER 18, 1974 - Dodd's statewide property tax plan is plagued with technical errors and fails to win support.

JANUARY 23, 1975 - Supreme Court says it will let current school finance system stand another year after legislature passes deadline.

JANUARY 27, 1975 - Byrne tells legislative leaders he will push another graduated income tax plan, coupled with reduction of sales tax to 3 percent, increase in corporate income tax and $5,000 property tax exemption. Budget gap pegged at $600 million.

APRIL 1, 1975 - Byrne and legislative leaders agree to work for $1 billion tax plan. Byrne favors personal income tax, while Dugan backs 10 percent surcharge raising $500 million.

APRIL 24, 1975 - Senate leaders tell Byrne they cannot muster votes for his plan. Byrne conceded it's dead, names Senator Stephen Wiley, D-Morristown, to draft scaled-down plan.

MAY 15, 1975 - Dodd comes out for $400 million "nuisance tax" plan, based on one-cent sales tax increase, to close the budget gap then standing at $246 million. Governor Byrne disapproves but eventually signs the tax measure.

MAY 23, 1975 - Supreme Court orders redistribution of $300 million in school aid effective July 1, 1976 if legislature doesn't develop its own new finance system.

MAY 27, 1975 - Senate approves bill revamping school finance system; commits legislature to raising $325 million for school aid before July 1, 1976.

JUNE 27, 1975 - In climactic vote, Senate rejects Byrne income tax plan by 17-21 vote. Byrne cuts budget by $384 million to meet constitutional requirement

that budget be balanced by July 1.

SEPTEMBER 29, 1975 - House passes Public Act of 1975. This is the only deadline the legislature has met.

JANUARY 1, 1976 - Court rules test the Public Act of 1975 is constitutional if fully funded.

MARCH 16, 1976 - House passes 2-4% income tax.

Although the two issues have been under consideration simultaneously, let me reiterate my belief that the income tax debate probably would have occurred without the school finance issue. The school finance act requires approximately $450 million in additional funding and the state needs at least $900 million in order to maintain an austerity level budget. The two issues are related in time and the minds of citizens, courts, and legislatures however, neither is dependent upon the other for survival.

<u>From the perspective of better serving the educational needs of pupils, are the changes that are attainable worth attaining</u>?

The new education law requires the school district to produce students able to read, write, and do simple arithmetic, and it directs the state government to pay a considerable share of the cost for poor, primarily urban, school districts: on the surface, a goal very much worth achieving.

However, there is no requirement that schools in Newark be equal to schools in Princeton; there is only a requirement that pupils in Newark have an equal opportunity to receive an adequate education. An adequate education in Newark may not be considered an adequate education in Princeton. At present, a Task Force on Competency Indicators and Standards is charged with providing recommendations on whether a statewide minimum standard should be adopted.

The process of creating a thorough and efficient education involves several steps. The local district must first establish district goals and priorities, then prepare a district needs assessment, implement a system of measuring whether pupils are meeting district goals and finally produce a procedure for remediation. At the same time, the task provides the opportunity for rethinking the educational process in general. This process is what makes New Jersey's new system unique. However, it is only a promise. The ability of the Commission of Education to monitor the evaluations and order any changes requires manpower which has not been made available to the Department.

Conclusion

New Jersey has attained a modest, "simple" yet potentially profound change in public education. It is welcome after the past four years of confusion, controversy, and chaos, but, it is the change in the education process, not in the way in which education is financed. New Jersey is not the state to look to for its contribution to creating a fiscally neutral state aid system. According to Justice Weintraub the Bateman/Tanzman school finance system is "a patchy product reflecting provincial contests rather than a plan sensitive only to the constitutional mandate." The new finance system is no different. New Jersey has failed at school finance reform.

The new finance system is no different. New Jersey has failed at school finance reform.

What New Jersey has is the goal of "providing" to all children in New Jersey regardless of socio-economic status or geographic location, the educational opportunity which will prepare them to function politically, economically, and socially in a democratic society. With this as its goal, New Jersey remains a state to watch.